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10/567,267	06/27/2008	Hugh Thomson	GHL-100US	4535
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VALLEY FORGE, PA 19482			PAPER NUMBER	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/567,267

Applicant(s)

THOMSON, HUGH

Examiner

Philip Gabler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-10,12 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10,12 and 14-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-8, 14, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor et al. (US Patent Number 6449770). Taylor discloses a vehicle safety device wearable on the torso of a person, the device comprising: a body (10) with front and back portions (13, 14), a plurality of releasable straps (20, 24) on the front portion and capable of receiving a vehicle seat belt, and a neck hole (15) wherein at least one strap (20) is mounted to a waist portion of the front portion and at least one strap (24) is mounted to a shoulder portion of the front portion, each strap includes a releasable clip (hook and eye fasteners; see for example column 4 lines 27-32 and 62-66) coupled to one end thereof and configured to mate with another clip to retain the seat belt against the safety device, each strap is fixedly connected to the body, the body is made from strengthened synthetic fabric, the body is sleeveless, the front and back portions are formed in a single piece, the straps are positioned on the device to be capable of accommodating a diagonally extending strap of the seat belt, and at least one strap is positioned near a portion of the body to guide the seat belt away from the

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neck hole (it is noted that this is a functional recitation, and the straps are *capable* of a receiving a diagonally extending seat belt strap).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor in view of Holder (US Patent Number 4571000). Taylor discloses a safety device as recited in claim 1 as explained above including removable fabric straps, the body including a pair of arm holes (19), and the releasable clip having a hook and eye fastener positioned below each arm hole, but Taylor does not disclose eyelets or removably attached sides. Holder shows a similar safety device wherein the device has a body (10) with front and rear portions (16, 17), eyelets (32) on the body, fabric straps (28) connected to the body through the eyelets, a pair of arm holes, and a side below each arm hole such that the front and rear portions are removably attached down the sides of the body by a releasable clip (36, 38). Accordingly, it would have been obvious to one of ordinary skill in the art to modify Taylor's device to include eyelets and removable sides as taught by Holder because the eyelets and side configuration would allow the device to be placed over the head and arms of the user more easily and connected in place to enhance comfort and ensure safety.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor in view of Reinhardt (US Patent Number 3742945). Taylor discloses a safety device that is basically the same as that recited in claim 9 except that the body lacks a fixed connection of the front and back portion at the shoulder section only. Reinhardt shows a safety device similar to Taylor wherein the device has a body (30) with front and rear portions only fixedly connected at a shoulder section. Accordingly, it would have been obvious to one of ordinary skill in the art to modify the Taylor's device such that the body's front and back portions were fixedly connected at a shoulder section only, as taught by Reinhardt because this could allow for adjustment of the device around the waist of the user enhancing comfort and safety.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor in view of Bimboese-Oswald (German Patent Number 3301385). Taylor discloses a safety device as recited in claim 1 as explained above, but does not disclose a waist strap oriented diagonally with respect to a bottom edge. Bimboese-Oswald shows a safety device similar to Taylor wherein the device has a body (1) and an attachment device (9, 10) at the waist portion of the body's front portion that is disposed diagonally with respect to a bottom edge of the device. Accordingly, it would have been obvious to one of ordinary skill in the art to modified Taylor's safety device to include a diagonally disposed waist strap as taught by Bimboese-Oswald because such an arrangement could provide anatomically better-positioned seatbelt holders along the user's waist. Moreover, it is simply a matter of common sense that the diagonal waist straps could be used to address the known problem of well-positioned seatbelts for a user riding in a

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vehicle. It is clear that one of ordinary skill in the art would have perceived a reasonable expectation of success as a result of combining the diagonal waist straps of Bimboese-Oswald with the safety device of Taylor.

### ***Response to Arguments***

Applicant's arguments, see remarks, filed 27 December 2010, with respect to the 35 USC 112 claim rejections have been fully considered and are persuasive. The 35 USC 112 claim rejections have been withdrawn.

Applicant's arguments filed 27 December 2010 have been fully considered but they are not persuasive. Specifically, Applicant argues that the Taylor and Bimboese-Oswald references do not disclose straps positioned to accommodate a diagonally extending seat belt strap. It is maintained however, that regardless of the intended method of operation of the references, they are clearly capable of operating as claimed and accommodating a diagonal strap within their releasable straps. A user could easily insert a diagonal seat belt strap through both the shoulder and waist straps of the reference devices. Accordingly, the cited references are viewed as disclosing all of the claimed limitations as currently written as explained in the rejections above.

The remainder of Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. This includes Sweger (US Patent Number 5213366).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Gabler whose telephone number is (571) 272-2155. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571) 272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DAVID DUNN/  
Supervisory Patent Examiner, Art Unit 3636